

Council for Exceptional Children

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The NEW IDEA

CEC's Summary of Significant Issues



Council for Exceptional Children

CEC: Leading the Way

The Council for Exceptional Children (CEC) is the largest professional organization internationally committed to improving educational outcomes for individuals with exceptionalities. CEC accomplishes its worldwide mission on behalf of educators and others working with children with exceptionalities by advocating for appropriate government policies, setting professional standards, providing continuing professional development, and assisting professionals in obtaining conditions and resources necessary for effective professional practice.

CEC: The Unifying Force of a Diverse Field

The Council for Exceptional Children, a private nonprofit membership organization, was established in 1922. CEC is an active network of more than 55,000 members in the United States, Canada, and over 30 countries.

The CEC Information Center: International Resource for Topics in Special and Gifted Education

The Council for Exceptional Children is a major publisher of special education literature and produces a comprehensive catalog semiannually. Journals such as *TEACHING Exceptional Children* (published six times a year) and *Exceptional Children* (published quarterly), and a newsletter, *CEC Today*, reach over 100,000 readers and provide a wealth of information on the latest teaching strategies, research, resources, and special education news.

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The Council for Exceptional Children

The NEW IDEA

CEC's Summary of Significant Issues

The New IDEA Bill

On November 19, 2004, Congress passed landmark legislation to reauthorize the Individuals with Disabilities Education Act, or IDEA. The passage of this historic bill follows three years of development, from the first public forums held by the Department of Education's Office of Special Education and Rehabilitative Services (OSERS) in October 2001, to the negotiations between the House-Senate conference committee to reconcile the differences between their two IDEA bills in the fall of 2004. In between, the House of Representatives passed its bill in April of 2003, while the Senate passed its bill in May of 2004. On September 21, 2004, the Senate appointed conferees to the IDEA conference committee, and almost three weeks later the House followed suit and appointed its conferees to the conference committee on October 8. The conference committee began deliberations and negotiations in October of 2004 and reported the compromise bill H.R. 1350, which both chambers passed, on November 19. The President is expected to sign the new IDEA bill into law shortly.

CEC's IDEA Reauthorization Activities

Prior to the introduction of the House and Senate reauthorization bills, CEC participated in a variety of activities in preparation for the reauthorization process. In addition to issuing the CEC *IDEA Reauthorization Recommendations* paper, CEC organized and continues to lead an IDEA reauthorization work group, consisting of representatives from disability, general education, and family associations. Our goal was to create consensus among these groups wherever possible, or at least, to create awareness of the various opinions and positions that exist among these groups. CEC staff also worked closely with key members in the House and Senate Education Committees, providing information and helping to craft legislative language.

Through IDEA reauthorization and other means, CEC continues to advocate for improved working conditions for all special educators and improved results for children and youth with disabilities and their families. CEC will provide continuous analysis of the IDEA to its members over the next several weeks. Please check CEC's Public Policy Web site (<http://www.cec.sped.org/pp>) for the most up-to-date information.

From the initial drafting of IDEA legislation to the conference committee that produced the new IDEA bill, CEC was proactive in making recommendations and disseminating its views on IDEA reauthorization to Members of Congress and Congressional Staff.

To read CEC's IDEA conference recommendations, go to:
<http://www.cec.sped.org/pp/August2004AnalysisforIDEAConferenceCECRecommendations.pdf>

CEC will continue to be proactive as the regulations process unfolds. In addition, over the course of the reauthorization process, CEC assembled numerous resources on IDEA reauthorization, including a reauthorization timeline, our summary of selected issues, our preliminary analyses of the House and Senate bills, our IDEA reauthorization recommendations, and more.

To read these resources, go to:
<http://www.cec.sped.org/pp/resources.html>.

Significant Issues in the New IDEA Bill

This document is intended to provide a summary of a selection of significant issues addressed by the new IDEA legislation H.R. 1350. While CEC believes that every issue addressed in the new IDEA reauthorization bill is important, we listed only the most significant issues here in order to provide CEC members and others with an immediate, up-to-date summary of the new IDEA bill. CEC will provide a more thorough analysis of the new bill through a variety of publications in the near future.

Highly Qualified

Summary:

Due to the newness and complexity of this issue, CEC has provided statutory language for this section.

(A) In General

For any special education teacher, the term “highly qualified” has the same meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965, except that such term also

- (i) Includes the requirements described in subparagraph (B); and (ii) Includes the option for teachers to meet the requirements of section 9101 of such Act by meeting the requirements of subparagraph (C) or (D).

(B) Requirements For Special Education Teachers.

When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that

- (i) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law;
- (ii) The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
- (iii) The teacher holds at least a bachelor's degree.

(C) Special Education Teachers Teaching To Alternate Achievement Standards

When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under the regulations promulgated under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, such term means the teacher, whether new or not new to the profession, may either

- (i) Meet the applicable requirements of section 9101 of such Act for any elementary, middle, or secondary school teacher who is new or not new to the profession; or
- (ii) Meet the requirements of subparagraph (B) or (C) of section 9101(23) of such Act as applied to an elementary school teacher, or, in the case of instruction above the elementary level, has subject matter knowledge appropriate to the level of instruction being provided, as determined by the State, needed to effectively teach to those standards.

(D) Special Education Teachers Teaching Multiple Subjects

When used with respect to a special education teacher who teaches 2 or more core academic subjects exclusively to children with disabilities, such term means that the teacher may either

- (i) Meet the applicable requirements of section 9101 of the Elementary and Secondary Education Act of 1965 for any elementary, middle, or secondary school teacher who is new or not new to the profession;
- (ii) In the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects; or
- (iii) In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects, not later than 2 years after the date of employment.

(E) Rule Of Construction.

Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this section or part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular State educational agency or local educational agency employee to be highly qualified.

(F) Definition For Purposes Of The ESEA.

A teacher who is highly qualified under this paragraph shall be considered highly qualified for purposes of the Elementary and Secondary Education Act of 1965.

Implications for CEC Members:

Put briefly, CEC has been working to help policymakers craft language to ensure that special educators are fully licensed in special education and competent in the content of the subjects in which they teach. This concept is not new. In fact, it has been CEC policy for some time.

However, the language in IDEA attempts to directly tie special educators “highly qualified” requirements to the subject matter requirements for general educators in

NCLB with little recognition for the integrity of special educators, special education licensure, the multiple settings in which special educators deliver services, the diverse roles within which special educators function, and the very diversity of the individuals for whom they work. This insensitivity will make implementation practically impossible.

The basic IDEA requirements for all practicing special educators in public schools are special educators must:

- Possess full State special education certification, or
- Pass a State special education licensing exam and hold some sort of a State license.

The latter requirement is disturbing in two ways. First it will pressure State policymakers with shortages of qualified special educators to permit individuals to become “highly qualified” by simply passing a State license test. This is not only opposed to CEC policy, but it is also technically unsound and flies in the face of literally every professional society’s standards. The *sine qua non* of special education is the focus on expertise to alter instruction for individuals so as to facilitate their successful learning. These special education skills must be assessed through multiple performance evaluations, not a single paper and pencil test. If individuals are permitted to become “highly qualified” based simply on a test score, it will trivialize the term “highly qualified.”

Second, this IDEA reiterates the NCLB requirements that allow individuals to be considered “highly qualified” as of the first day they enroll in an “alternative preparation program” even if these individual have never taught a single lesson in a classroom. Special educators diligently develop trust relations with the parents, families, and communities with whom they collaborate, and this sort of “government speak” is significantly detrimental to the trust relationship necessary between professionals and the people for whom they are working.

Beyond the basic requirements noted above, IDEA contains additional requirements for special educators who are teaching multiple subjects and those teaching students working on the “alternate achievement standards.”

If you are a practicing special educator teaching:	Then you must meet the requirements in NCLB:
1. Only students who are assessed with the NCLB alternative achievement standards	For elementary or secondary subject matter teachers.
2. Multiple subjects	<ul style="list-style-type: none"> ➤ For new elementary, middle, or secondary teachers, or ➤ For elementary, middle, or secondary teachers not new to teaching through the HOUSSE process.

If you happen to teach students who are assessed with the NCLB alternative achievement standards and you also teach other subject matter areas, you apparently will have to meet the requirements for both condition 1 and 2. Moreover, the IDEA “highly qualified” requirements make no mention of early childhood special educators.

The result is an extraordinary federal intrusion into what has been the domain of States and the profession. It is an overly simplified attempt by the federal government to force States into uniform general education requirements for subject matter knowledge for special educators.

The implications of these requirements for CEC members and all practicing special educators in far too many cases will result in requirements that are bureaucratic and intrusive. However impractical or unsound the myriad of consequences, they are becoming law at least for now, and CEC members will need to assess their individual situations in light of these requirements. CEC members in leadership positions will need to be vigilant to the pressures to lower licensing requirements in order to meet requirements for what the law describes as “highly qualified” special educators. In addition, members must advocate for rigorous alternative preparation programs.

Finally, CEC members need to be at the table when their State develops plans for implementation of this provision.

Reducing Paperwork

Summary:

- The new bill creates a 15-State paperwork demonstration program. The Secretary is authorized to grant waivers of statutory requirements of, or regulatory requirements relating to, Part B for a period of time not to exceed 4 years based on proposals submitted by States to reduce excessive paperwork and non-instructional time burdens. The Secretary shall not waive under this section any statutory requirements of, or regulatory requirements relating to, applicable civil rights requirements. Beginning two years after the date of enactment of IDEA, the Secretary shall include in the annual report to Congress information related to the effectiveness of waivers granted.
- Not later than the date that the Secretary publishes final regulations, to implement amendments made by IDEA, the Secretary shall publish and disseminate widely to States, local education agencies, parent and community training and information centers model forms for IEPs, IFSPs, notice of procedural safeguards, and prior written notice.
- Other paperwork reduction provisions are summarized in other sections of this paper.

Implications for CEC Members:

As a result of CEC's advocacy on paperwork reduction, it is anticipated that the 15-state paperwork demonstration program will increase instructional time and streamline State and local requirements, ensuring that paperwork focuses on improved educational and functional results for children with disabilities while preserving civil rights and procedural safeguards.

Funding: Part B

Summary:

H.R. 1350 continues the trend of providing federal funding for IDEA on a "glide path" instead of meeting the government's 29-year-old obligation to provide mandatory full funding. H.R. 1350 authorizes \$12.36 billion for fiscal year 2005, and provides an additional \$2.3 billion for each year thereafter through fiscal year 2011, when full funding would theoretically be achieved. However, because IDEA remains a discretionary program under H.R. 1350, appropriators are free to fund IDEA at whatever level is politically expedient. In fact, Congressional appropriators only provided about an additional \$500 million for IDEA for fiscal year 2005.

The conference committee stated that making IDEA an entitlement, or mandatory, program would not give Congress the flexibility to improve services for students with disabilities. The committee recognized that any changes in funding that are needed for entitlement programs must be offset with funding changes in other programs, which could mean preventing IDEA from receiving significant funding increases.

Congress did not change the formulas for allocating funds in Section 619 Preschool Grants. For Section 619 Preschool Grants, H.R. 1350 authorizes “such sums as may be necessary”.

Implications for CEC Members:

CEC has long advocated for the mandatory full funding of IDEA, and the funding levels authorized in this bill fall in line with our recommended approach to reaching full funding. However, in the 1975 special education legislation, Congress promised to reach full funding by 1981. But, instead of providing funds to pay for 40 percent of the additional cost of educating a student with disabilities, the federal government is only providing 18.6 percent of that additional cost in fiscal year 2004. At the rate Congress is funding IDEA, full funding will never be reached.

The implications of a “glide path” to full funding are much the same as they have been in the past: an unfunded mandate. While H.R. 1350 authorizes Congress to appropriate money to achieve full funding, it still does not make IDEA an entitlement program, thereby guaranteeing mandatory full funding. Instead, IDEA funding is still at the whim of Congressional appropriators and will continue to financially burden State and local education agencies in educating students with disabilities.

While Section 619 and Part C are not part of the full funding debate in Congress, the implications for continued under-funding of these programs are much the same as those for not fully funding Part B. CEC and its members will continue to advocate for full funding for these programs because we believe that they are still under funded at the federal level and that they continue to be a burden on State and local coffers. For fiscal year 2004, Congress appropriated \$387.7 million for Section 619 and \$444.4 million for Part C. CEC urges Congress to fund Section 619 at \$652 million and Part C at \$590 million for fiscal year 2005.

Funding: Allocation

Summary:

H.R. 1350 provides new formulas for providing grants to State and local education agencies. The new bill provides formulas for determining the maximum amount a State can receive based on numerous factors, including the number of children receiving special education and related services aged 3-5 and 6-21, and average per-pupil expenditure in the United States, according to the fiscal year in effect. H.R.

1350 also provides a formula for allocating any increase in appropriations over the previous fiscal year, based on a State's relative population of children aged 3-21 with disabilities and based on the relative population of children with disabilities who are living in poverty. No State's allocation can be less than the previous year's allocation. The new bill establishes risk pools for local education agencies to help pay for the education of high-need students and the unexpected enrollment of students with disabilities. Under this provision, States have the option to reserve 10 percent of the amount of funds the State reserves for State-level activities. Any funds that a State does not use for the risk pool will be allocated to the local educational agencies in the next fiscal year. H.R. 1350 also caps the amount of funds that may be used for administration at the fiscal year 2004 level and allows States to retain an increased portion for other required State-level activities. This portion would be capped after two years.

Implications for CEC Members:

CEC is pleased that the new bill explicitly establishes risk pools that were permitted under IDEA '97. CEC believes that this provision now gives some States the go-ahead needed to ensure that the costs of educating high-need students are met. CEC is concerned about the balance of funds between the State education agencies and local education agencies to implement IDEA. In this respect, CEC will continue to monitor the collaboration between States and local education agencies in allocating their funds for IDEA implementation. In addition, CEC is concerned that capping funds for State administration may leave States with insufficient funds to administer IDEA properly.

Personnel Standards

Summary:

This section directs the State educational agency to establish and maintain qualifications to ensure that personnel are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

This section also includes qualifications for related services personnel and paraprofessionals. The qualifications (i) are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which these personnel are providing special education or related services; (ii) ensure that related services personnel who deliver services in their discipline or profession meet the requirements of clause (i) and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and (iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements

of this part to be used to assist in the provision of special education and related services under this part to children with disabilities.

The State shall adopt a policy that includes a requirement that local educational agencies in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.

Nothing in the section shall be construed to create a right of action on behalf of an individual student for the failure of a particular State educational agency or local educational agency staff person to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the State educational agency.

The new bill deletes all reference to the comprehensive system of personnel development and the highest requirements under personnel standards.

Implications for CEC Members:

CEC recommends retaining State requirements in Part B similar to the components of the Comprehensive System of Personnel Development that require States to create and implement State systems for comprehensive workforce planning, and that further guarantee the involvement of a wide base of stakeholders. In lieu of this requirement, CEC recommends that State education agencies develop plans that address:

- Demand for general and special educational personnel to ensure all children with disabilities are taught by highly qualified teachers and related service personnel;
- Attrition rates of general and special education personnel, including such information as attrition within and across school districts and across educational disciplines, the reasons for attrition, and conditions in school systems that are related to higher need areas;
- Capacity, based on infrastructure, to produce highly qualified general and special educational personnel within areas of need;
- Demand for effective ongoing professional development of the existing general and special educational workforce, including the need for career paths designed to encourage the retention of highly qualified related services personnel and general and special education teachers in classrooms;
- Effective strategies for recruiting and retraining personnel in high-need areas; and
- Strategies for ensuring that the State's professional standards align with student learning standards, nationally recognized program accreditation standards, and standards for the licensure of educational professionals.

Performance Goals and Indicators

Summary:

The State must establish goals that:

- Promote the purposes of this title;
- Are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities under the ESEA of 1965;
- Address graduation rates and dropout rates, as well as such other factors as the State may determine; and
- Are consistent, to the extent appropriate, with any other goals and standards for children established by the State.

The State must establish performance indicators the State will use to assess progress toward achieving the goals described in this section, including measurable, annual objectives for progress by children with disabilities in the Elementary and Secondary Education Act (ESEA) of 1965.

The State will annually report to the Secretary and the public on the progress of the State, and of children with disabilities toward meeting the goals established in this section, including elements of the reports required under the ESEA of 1965.

Implications for CEC Members:

CEC members in State service will need to collaborate with the special and general education teams in their State Education Agency (SEA) to establish goals for the performance of children with disabilities that are consistent with ESEA of 1965. In addition, collaboration with Local Education Agencies (LEAs) will be necessary to ensure this provision is implemented.

Over-Identification and Disproportionality

Summary:

- The new bill allows for the development of new approaches to determine whether students have specific learning disabilities by clarifying that schools are not limited to using the IQ-achievement discrepancy model.
- The new bill provides funds for training school personnel in effective teaching strategies and positive behavioral interventions and supports to prevent over-identification and misidentification of children.
- The new bill requires districts with significant over-identification of minority students to operate pre-referral programs that work to reduce over-identification.

Implications for CEC Members:

CEC members will need to advocate for and engage in continuing research, and pre-service and in-service training related to new approaches to determine whether students have learning disabilities, as well as effective teaching strategies and positive behavioral interventions. CEC members in LEAs will need to develop, implement, and evaluate pre-referral programs that work to reduce over-identification.

Adjustment to Local Fiscal Effort

Summary:

The new bill authorizes local districts to reduce local expenditures on certain programs below the prior year's levels, up to an amount equivalent to 50 percent of new federal special education funding each year, on a cumulative basis, as long as an equivalent amount of local funds is used for activities authorized under ESEA of 1965.

Implications for CEC Members:

CEC members will need to be vigilant to ensure that no LEA reduces the level of expenditures if they are unable to establish and maintain programs of free appropriate public education (FAPE) and/or have had action taken against them by the SEA under Section 616 of IDEA (Monitoring, Technical Assistance, and Enforcement). CEC supported the use of 20 percent of the above funds for this purpose contained in the House bill for reauthorization and under IDEA '97. The House bill would have only extended the allowable uses of these funds. Given that

IDEA is not fully funded, CEC is concerned with increasing the percentage because fewer funds would then be available to provide FAPE.

Early Intervening Services

Summary:

The new bill authorizes local educational agencies to use up to 15 percent of IDEA funds for supportive services to help students not yet identified with disabilities but who require additional academic and behavioral supports to succeed in a general education environment.

Implications for CEC Members:

While CEC has long supported the policy of allowing a certain amount of Part B funds to be treated as local funds along with appropriate use of such funds, CEC has serious concerns that since IDEA is not fully funded, and with the changes to the section on adjustment to local fiscal efforts, there will be fewer funds available to provide FAPE. CEC members in LEAs will need to develop plans for the most appropriate use of all available funds to provide FAPE to students with disabilities.

Evaluation

Summary:

The new bill establishes a 60-day timeline from receipt of parental consent for evaluation for eligibility to the determination of eligibility and the educational needs of the child, unless the State has already established a timeline for these activities. Exceptions to this timeframe that address children moving between school districts and parent's refusal to make the child available for evaluation are included.

H.R. 1350 also states that an LEA cannot request dispute resolution to override a parent's refusal to consent for special education and related services. In these circumstances, the LEA is not responsible to provide FAPE, convene an IEP meeting or develop an IEP.

The new bill adds additional procedures for obtaining parental consent for initial evaluation when the child is a ward of the State including circumstances in which the agency is not required to obtain such consent.

- The new bill modifies the language related to the frequency of reevaluation stating that it may not occur more than once a year unless agreed to by the

parent and LEA; and that it must occur at least once every three years unless the parent and LEA agree it is unnecessary.

- The new bill changed the provision related to native language or other mode of communication to State instead that evaluations "... are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer."

H.R. 1350 adds a requirement that the LEA "... shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals" for a student who is no longer eligible due to graduation from secondary school with a regular diploma or for a student who exceeds the age of eligibility under State law.

Implications for CEC Members:

Given the new 60-day timeline for determining eligibility and the educational needs of a child, unless the State has already established a timeline, it would appear to be in the best interest of an SEA and its LEAs to immediately begin to identify what specific procedures and resources would be needed in order to implement this new provision.

Although an LEA cannot request dispute resolution to override a parent's refusal to consent for special education and related services and is therefore not responsible to provide FAPE, including meeting the IEP requirements, it would, once again, appear to be in the best interest of all the parties involved – child, parent, and LEA – that specific procedures be developed for addressing the child's needs to the extent possible through the general education curriculum.

As to the frequency of re-evaluations, this provision will need to be clarified through final federal regulations, including documenting the parent and LEA agreement.

Finally, the bill's new provisions regarding providing students with summaries of academic achievement, functional performance, and recommendations to assist in meeting postsecondary goals, upon graduation or aging out of the programs, will need to be clarified in final federal regulations.

Specific Learning Disabilities

Summary:

The new bill adds language related to determining whether a child has a specific learning disability stating that "... a local educational agency shall not be required to take into consideration whether a child has a severe discrepancy between

achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.”

In addition, the new language states that “in determining whether a child has a specific learning disability, a local educational agency may use a process that determines if the child responds to scientific, research-based intervention” as a part of the required evaluation procedures.

Implications for CEC Members:

CEC recognizes that the use of the aptitude-achievement discrepancy model continues to be a controversial component in the identification of LD and shares those concerns. However, since there are no research-based alternatives that have been sufficiently validated at this time, CEC recommends that the Secretary establish a research priority and sufficient funds be allocated to validate psychometric, non-psychometric and “response-to-treatment” methods of identification. Particular attention should be given to the fidelity of the response-to-treatment method on a large scale and its impact on disproportional representation of children from culturally and linguistically diverse backgrounds.

IEP: Content

Summary:

H.R. 1350 deletes benchmarks and short-term objectives for children with disabilities, except for those children who take alternate assessments aligned to alternate achievement standards.

The new bill revises the provisions related to parental reporting eliminating the language requiring reporting “at least as often as parents are informed of their non-disabled children’s progress” and reporting on “the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.” The new language requires a description of how the child’s progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

In addition, the new bill deletes references to transition activities at age 14, beginning all transition requirements not later than the first IEP to be in effect when the child is 16 years old. In addition, new language is added requiring the inclusion in the IEP of “... appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills.”

Implications for CEC Members:

As originally requested by CEC, the bill deletes benchmarks and short-term objectives, and although these components of the IEP are still required for a segment of the population we serve, overall, this will reduce the amount of paperwork CEC members are required to complete.

In regard to “parental reporting”, the language in this component of the IEP was revised. Until the final federal regulations are issued, it is unclear as to the impact of these changes.

Finally, the bill deletes any references to transition needs to age 14, but added language regarding the provision of services at age 16. Once again, it is unclear as to the implications of these changes until final federal regulations are issued.

IEP: Team Attendance

Summary:

The new bill adds a number of provisions related to attendance at IEP meetings including:

- A member of the IEP Team shall not be required to attend all or part of the IEP meeting if the parent (in writing) and the LEA agree that the team member’s attendance is not necessary because the member’s area of the curriculum or related services is not being modified or discussed in the meeting;
- A member of the IEP Team may be excused from attending all or part of an IEP meeting when the meeting involves a modification to or discussion of the member’s area of the curriculum or related services, if the parent (in writing) and the LEA consent to the excusal and the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.
- For a child who was previously served under Part C, the new bill requires that an invitation to the initial IEP meeting, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

Implications for CEC Members:

Although the concept of clarifying who needs to attend IEP meetings, including excusing members, seems to be a reasonable one, the new provisions in the bill relating to attendance appears to create more rather than less time constraints on LEA staff. The need to document, in writing, parental consent and LEA agreement, coupled with previous written input from school staff excusal from IEP meetings, would seem to take more time than actually attending the IEP meetings themselves.

As to the attendance of Part C personnel at initial IEP meetings, this would make sense, if the role and responsibility of the Part C personnel is specifically defined.

Provisions Related to Children Transferring Into the LEA Program

Summary:

- In the case of a child transferring into preschool Special Education from the Part C program, the new bill requires the IEP Team to consider the individualized family service plan that contains the material described in section 636.
- In the case of an eligible child with an IEP who transfers school districts within the same academic year within the same State, the new bill requires the LEA to provide the child with FAPE, including services comparable to those described in the previous IEP, in consultation with the parents until the LEA adopts the previous IEP or develops, adopts, and implements a new IEP.
- In the case of a child with a disability who transfers within the same academic year, who had an IEP that was in effect in another State, the LEA shall provide the child with FAPE including services comparable to those described in the previous IEP, in consultation with the parents until the LEA conducts an evaluation, if determined to be necessary by the LEA, and develops a new IEP, if appropriate.

Implications for CEC Members:

“Consideration” of the IFSP for children transferring into preschool special education from the Part C program can only enhance the development of the IEP by the LEA and should not create any burden on district staff.

Until final federal regulations are issued on the new transfer provision for eligible children “within the same State”, it is difficult to identify any specific implications for CEC members at this time. However, given the proposed changes in the LD eligibility criteria, as an example, this provision could create difficulties in transfers within the same State.

The new transfer provision that addresses children with disabilities “moving from one State to another State” has the potential for creating havoc for a receiving LEA. Issues of differences in eligibility criteria from State to State alone will make it extremely difficult to implement this provision. This fact combined with “automatic pendency” regarding the provision of compatible services could create an unfavorable situation.

IEP: Amending The Plan

Summary:

The new bill adds additional provisions related to amending IEPs including:

- If changes to a child's IEP are necessary after the annual IEP meeting for a school year, the parent and the LEA may agree not to convene an IEP meeting to make the changes, but instead may develop a written document to amend or modify the current IEP.
- Changes to the IEP may be made either by the entire IEP Team or, as provided above, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided a revised copy of the IEP with the amendments incorporated.

Implications for CEC Members:

Although the above provisions for amending an IEP may have been based upon good intentions (i.e., reducing the number of IEP meetings), an unexpected consequence may be increased paperwork.

IEP: Multi-Year IEP Demonstration

Summary:

The new bill authorizes the Secretary to approve up to 15 proposals from States to allow LEAs, with written consent of the parent, to develop comprehensive multi-year IEPs, not to exceed 3 years. Multi-year IEPs must include:

- Measurable goals coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from their disability;
- Measurable annual goals for determining progress toward meeting the goals above; and
- A description of the process for the review and revision of the multi-year IEP, including—
 - a review by the IEP Team of the child's multi-year IEP at each of the child's natural transition points; and

- in years other than a child's natural transition points, an annual review of the child's IEP to determine the child's current levels of progress and whether the annual goals for the child are being achieved, as well as a requirement to amend the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP.

If the IEP Team determines on the basis of a review that the child is not making sufficient progress toward the goals described in the multi-year IEP, the LEA shall ensure that the IEP Team conducts a thorough review of the IEP in accordance with IEP review requirements within 30 calendar days. In addition, at the request of the parent, the IEP Team shall conduct a review of the child's multi-year IEP rather than or subsequent to an annual review.

A report will be issued on the effectiveness of multi-year IEPs 2 years after the new law is enacted.

Implications for CEC Members:

CEC is extremely pleased by the fact that its original design for a “multi-year IEP” is contained in the reauthorization of IDEA. As the “pilot” project moves forward, CEC staff will: monitor its progress, solicit input from the field on its implementation, and provide feedback to the Department on any changes that may be required to improve its effectiveness.

Discipline

Summary:

The new bill makes the following changes to the discipline provisions of Part B:

- Language has been added giving school personnel authority, on a “case by case basis”, to consider unique circumstances when determining whether to order a change in placement for a child with a disability who violates a code of student conduct;
- The length of time that school personnel may remove a student to an interim alternative setting (without a hearing officer) has been changed from 45 days to 45 school days. In addition, school personnel may now remove a student who “has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function” to such an interim placement without a hearing officer ruling;
- The provisions related to the criteria for determining whether a behavior was a manifestation of a student’s disability has been revised to state:
 - if the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or

- if the conduct in question was the direct result of the LEA's failure to implement the IEP.
- Timelines have been added for an expedited hearing in matters related to placement during appeals.
- The length of time that a hearing officer can initially order a change in placement to an interim alternative placement by concluding the current placement of the child is "substantially likely to result in injury to the child or to others" has changed from 45 days to 45 school days.
- Under the protections for children who are not yet eligible under IDEA, the provisions related to whether or not an LEA should have known that a child was a child with a disability have been changed as follows:
 - Current disciplinary provisions require that a parent must put their concerns in writing to school personnel that their child needs special education services, with an exception for a parent who is illiterate or has a disability impacting on their ability to submit concerns in writing. The new bill eliminates that exception related to the parent's ability to put their concerns in writing.
 - Under the new bill, an LEA shall not be deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services, or the child has been evaluated and it was determined that the child was not a child with a disability.
- The definition of "substantial evidence" was deleted.

Implications for CEC Members:

Given the controversy that has surrounded the discipline provisions over the past decade, caution must be exercised over interpreting what these new requirements may mean until final federal regulations are issued. Examples of specific policy areas that will need to be addressed during the regulatory process include: defining "unique circumstances" as they relate to the authority of school personnel to make a change in placement on a "case by case" basis; clarifying the length of time a student may be removed from school, 45 days v. 45 school days; providing additional information on the revised criteria for determining whether a behavior was a manifestation of a student's disability; and explaining the significance of deleting the definition of "substantial evidence" from the statute.

Attorneys' Fees

Summary:

In addition to awarding attorney's fees to a parent who prevails in a hearing, the new bill allows such reasonable attorneys' fees to be awarded by the court to:

- An SEA or LEA who prevails against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or
- To a prevailing SEA or LEA against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

Implications for CEC Members:

In those rare instances, where a parent or a parent's attorney files an "unwarranted" complaint for the various actions cited in the bill, an SEA or LEA will be able to recoup reasonable attorneys' fees expended on the process. However, it has always been CEC's position that in order to meet the needs of children with disabilities there must be a working partnership with parents. Therefore, it is assumed that these new provisions will only be used in extreme circumstances.

Procedural Safeguards

Summary:

- The new bill allows complaints to be submitted no more than two years from the date a parent or agency knew or should have known about the issue that is the subject of the complaint or within the timeline the State requires. Exceptions related to an LEA not providing required information to parents are included.
- The new bill requires that both parties must submit a due process complaint notice before accessing a due process hearing. Detailed provisions are also included regarding the sufficiency of the notice, timelines for submitting responses to the notice and procedures for amending the notice.
- The new bill allows mediation to be requested prior to the filing of a complaint and strengthens the provisions for developing a written binding confidential

agreement that is enforceable in any State or district court of the United States.

- The new bill creates an additional dispute resolution process called “resolution session.” The LEA must convene the session prior to a due process hearing unless the parent and the LEA agree in writing to waive the meeting or to go to mediation. The session must be conducted within 15 days of the request for the hearing and the complaint must be resolved within 30 days of the request or a due process hearing may occur. If successful resolution is reached, a binding signed written settlement agreement must be developed and is enforceable in any State or district court of the United States. Either party may void this agreement within 3 business days.
- The new bill includes provisions related to decisions made by the hearing officer. Specifically, a decision made by a hearing officer must be made on substantive grounds based on a determination of whether the child received a free appropriate public education. A hearing officer may find that a child did not receive FAPE only if the procedural errors impeded the child's right to FAPE, significantly impeded the parents' opportunity to participate in the decision making process regarding the provision of FAPE, or caused a deprivation of educational benefits. However, the bill states that a hearing officer may order an LEA to comply with procedural requirements.
- A party bringing a civil action has 90 days from the date of the hearing officer's decision to bring a civil action or the time period allowed by the State law.

Implications for CEC Members:

By establishing timelines for the submission of complaints and bringing a civil action, this should reduce the amount of litigation regarding the statute of limitations for various dispute resolution processes. However, it should be noted, that these new timelines only apply where a State has not already established its own required timelines for these actions.

As to the issue of submitting a due process complaint notice before accessing a due process hearing, this will require the development of additional processes by an SEA and LEA in order to implement these new provisions. Although the concept is not new, the involvement of the hearing officer regarding sufficiency of the notice and amending the notice are both new provisions.

Monitoring, Technical Assistance and Enforcement

Summary:

This section addresses the need for quantifying State infractions and with how those infractions are dealt. The new bill establishes a number of monitoring priorities for which States must develop performance plans. No later than 1 year after the bill is enacted, States must submit their performance plans to the Secretary of Education. The Secretary must approve each State plan and monitor the data from State plans along with data in Section 618. The Secretary will then determine how successfully a State has met its plans.

After evaluating a State's performance plan, the Secretary will place the State in one of four categories:

1. State meets the requirements and purposes;
2. State needs assistance in implementing the requirements;
3. State needs intervention in implementing the requirements;
4. State needs substantial intervention in implementing the requirements.

If a State falls into the "needs assistance", "needs intervention," or "needs substantial intervention" category, the Secretary has numerous options for actions it must take against that State. Some of those options include advising a State on available technical assistance for help in executing its plan; withholding grant funds; and, in the most severe cases, referring the State to the Department of Justice for appropriate enforcement. Many of these actions were already available to the Secretary under current law, but they are now codified in the new bill.

Implications for CEC Members:

As noted above, many of the actions available to the Secretary in the new bill were already available under the previous law. However, CEC members will need to be alert to the number of targets that a State must monitor, and the numerous actions available to the Secretary to enforce compliance with the law, which will lead to a greater focus on process instead of on results. In addition, CEC is concerned that the codification of these requirements and actions may actually increase the already significant amount of paperwork and administrative duties of educators and administrators.

Optional Birth-through-Six Program

Summary:

The new bill includes a new *optional* State program that must be developed and implemented jointly by the Part C lead agency and the SEA. If a State elects to apply for this program, parents of children eligible for preschool services under section 619, who were previously receiving services under Part C, may choose to continue early intervention services under Part C until their children enter, or are eligible under State law to enter, kindergarten. The State policy must ensure that these Part C services for preschoolers with disabilities include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills.

Under this new State option, parents retain the right to transition their eligible preschool child to Part B preschool and receive FAPE. Parents must be given annual notice of the right to FAPE for their preschooler and be advised that if they choose to stay in Part C, all Part C rules will apply. This includes the use of family fees if these are included in the State's Part C system. Part B rules do not apply for preschoolers whose parents elect to stay in the Part C system.

The new bill indicates that this new State policy option is triggered as soon as the appropriation for Part C reaches \$460 million. According to the language, the Secretary shall reserve 15 percent of Part C funds to provide grants to States that elect to carry out this policy. According to the language, no State shall receive an incentive grant for any fiscal year greater than 20 percent of the amount reserved for the fiscal year.

In addition, any State that elects to participate in this option must ensure that there will be a referral for evaluation for early intervention services of a child who experiences a substantiated case of trauma due to exposure to family violence.

Implications for CEC Members:

CEC is very concerned about the funding provisions of this new State option. No new money is included and it appears there will be a negative impact on the availability of funds to continue services to eligible children under Part C. The new language calls for 15 percent of any appropriation in excess of \$460 million to be diverted to the preschool option. These diverted funds, then, are no longer available for children-birth-through-three. Since the appropriation for FY 2005 is \$444,363,000, this option will not be in effect for July 1, 2005.

CEC believes this new State option can only be successful if new funds are made available.

Summary:

The new bill requires States to include in their application for Part C a description of the State policies and procedures that require the referral for early intervention services under this part of a child under the age of 3 who:

- is involved in a substantiated case of child abuse or neglect; or
- is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure.

This language is consistent with P.L. 108-36, The Child Abuse Prevention and Treatment Act (CAPTA) enacted last year, which requires child protective services agencies to refer these children to Part C.

The report language that accompanied the final IDEA conference bill gave additional guidance on this issue, referring to the children described above: "The Conferees intend that every child described in 637(a)(6)(A) and (B) will be screened by a Part C provider or designated primary referral source to determine whether a referral for an evaluation for early intervention services under Part C is warranted. If the screening indicates the need for a referral, the Conferees expect a referral to be made. However, the Conferees do not intend this provision to require every child described in Section 637 (a)(6)(A) and (B) to receive an evaluation or early intervention services under Part C."

Implications for CEC Members:

CEC is pleased that the final IDEA language supports current federal regulations that allow for a review of information on a child referred to Part C, to determine if the child is in need of a multidisciplinary evaluation in all five developmental areas. The continuation of this federal policy in reauthorization is necessary to ensure a full multidisciplinary evaluation for those children who need it. Maintaining this policy also preserves Part C funds for the provision of early intervention services for the over a quarter of a million eligible children and their families served under Part C (OSEP December 2003), a number that continues to grow significantly each year.

Part D: State Personnel Development Grants

Summary:

This program refocuses what was previously the State Improvement Grants (SIG) program to target federal assistance to help State education agencies, in partnership with other agencies and organizations in their States, to improve State systems for personnel preparation and personnel development in early intervention, educational, and transition services for the purpose of improving results for children with disabilities. States with existing SIG grants may continue those grants until they expire, or may opt to apply instead for a new grant under the revised program.

1. Grant Awards: Depending on the amount of money appropriated for this program by Congress, grants will be awarded on either a competitive or formula basis:

Competitive grant awards will be made until such time as the funds available (the annual appropriation minus the funds needed to cover costs of previous SIG grants) for this program in any year reach \$100 million. These awards will range from \$500,000 to \$4 million a year for States, and not less than \$80,000/year for each outlying area.

Formula grants will be awarded when the funds available (the annual appropriation minus the funds reserved to cover costs of previous SIG grants) reach or exceed \$100 million, and for every year thereafter. The allocation of funds will be made on the same formula basis as funds awarded under Sec. 611(d).

2. Partners: SEA partnerships must include organizations and individuals involved in or concerned with the education of children with disabilities. Required partners include local education agencies and State agencies, and must include at least one institution of higher education, the State agencies responsible for administering Part C, early education, childcare and vocational rehabilitation programs, and the entity responsible for teacher preparation and certification in the State if that entity is not the SEA. Other partners are required and may be selected by SEAs from a list specified in the law.

3. State Plan: The SEA application must include a State plan that identifies and addresses State and local needs for personnel preparation and professional development of personnel serving infants, toddlers, preschoolers and children with disabilities. It must describe activities to be conducted, and must specify the roles and commitments of each partnership member. The plan must be based on an assessment of State and local needs, and must be integrated and aligned with State plans and activities under ESEA, the Rehabilitation Act, and the Higher Education Act.

4. Grant Activities: SEA partnerships will have considerable discretion in identifying and designing activities to meet the personnel needs outlined in their State plan.

They must spend at least 90% of grant funds on *professional development activities* to improve the knowledge, skills and effectiveness of personnel serving children with disabilities, and may include general educators in their activities. Not more than 10% of grant funds may be used to support *other activities* that primarily address policy and systemic issues at the State and local level associated with the certification, preparation, recruitment, retention, and ongoing professional development of personnel serving children with disabilities.

Authorization of Appropriations. The law authorizes “such sums as may be necessary” in each year through FY 2010. For FY 2005, Congress has appropriated \$50,652,512.

Implications for CEC Members:

By targeting this program directly on personnel preparation and professional development activities that address high priority needs of States, CEC anticipates that increased attention and funding will be directed to personnel development needs of people serving children with disabilities who work in early intervention, special education, general education, and related services, including paraprofessionals and administrators. In addition, a requirement that grant funds must significantly and directly benefit school districts and another requiring an assurance that the SEA will carry out the strategies specified in its application are expected to further increase the impact of these grants at the local level. The requirement that the State plan be based on a needs assessment provides an important opportunity for CEC members to contribute to the identification and prioritization of critical personnel preparation and professional development needs. Similarly, considerable discretion given to the SEA to select members of the requirement partnership provides CEC members the opportunity to make recommendations to the SEA on which organizations and individuals should be included as partners. Finally, because explicit reference to related services providers in statutory language is very limited, special attention needs to be paid in the development of State plans and applications to ensure that their professional development needs are addressed.

Summary:

NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH

The most dramatic change in IDEA Part D is the elimination of language authorizing research and innovation activities in the education of children with disabilities, the creation of a new research authority to the Institute of Education Sciences (IES), and the establishment in IES of a new National Center for Special Education Research that will carry this new authority. The mission of this Center is:

- To sponsor research to expand knowledge and understanding of the needs of infants, toddlers and children with disabilities in order to improve their developmental, educational and transitional outcomes;
- To sponsor research to improve services provided under IDEA;
- To evaluate the implementation and effectiveness of IDEA.

Commissioner. The Center is to be headed by a Commissioner, selected by the IES Director, whose qualifications are to include a high level of expertise in the fields of research, research management, and the education of children with disabilities.

Research Plan. A plan to guide the Center's research activities, developed by the Commissioner in collaboration with the OSERS Assistant Secretary, is to be submitted to the IES Director. This plan, to be updated "as appropriate," is to be consistent with the purposes of IDEA, contain an appropriate balance across all age ranges and types of children with disabilities, and be coordinated with the IDEA Part D comprehensive plan.

Conforming Amendments. The activities of the new Center will be generally subject to the administrative and operational standards and procedures that apply to activities carried out under Title I of the Education Sciences Reform Act (ESRA) and administered by the IES. To accommodate the new Center and its mission, the bill makes several conforming technical amendments to ESRA, such as references to IDEA.

Relevant Provisions in the Education Sciences Reform Act. Title I of ESRA already contains provisions that will apply to the new Center and its activities. Of particular relevance to research activities in the education of children with disabilities are the following:

- Public Input. The IES Director is required to solicit and consider the recommendations of education stakeholders, in order to ensure broad and

regular public and professional input from the educational field in the planning and carrying out of IES activities.

- Development and Approval of Priorities. Proposed priorities (presumably drawn from the research plan) must be presented by the IES director to the National Board for Education Sciences for review and approval. Before taking proposed priorities to the Board, however, the IES Director is required to publish the priorities for public comment for at least 60 days and then provide the Board a copy of each comment received at the time he/she submits the proposed priorities for Board review and approval. Final priorities are to be made available to the public.

Related Amendment. The new bill also delegates responsibility to the Director of IES for activities to assess the progress in the implementation of IDEA State grant programs under Parts B and C. These activities include a wide range of national studies (e.g., on personnel, on finance, and in early intervention, preschool, elementary and secondary/transition education) authorized in Sec. 664 of the new bill.

Effective Date. The amendment requiring development of a research plan goes into effect on October 1, 2005. All other amendments related to research go into effect on the date of enactment of the IDEA legislation.

Authorization of Appropriations. The IDEA amendments do not include an authorization of appropriations for the activities of the new Center. Because this Center will be an administrative unit in IES, its funding will be subject to the appropriations authority for Title I of the Education Sciences Reform Act. At present that authorization level is at “such sums as necessary.”

Implications for CEC Members:

The IDEA amendments end speculation over whether and when the responsibility for carrying out research in the education of children with disabilities would shift from OSEP to IES. However, many questions still remain, including whether there will be continued federal support for model development and outreach activities (either at OSEP or at IES), whether IES will invest in field-initiated research (which it currently does not), and how IES will respond through its research investments in critical issues affecting small sub-populations of children with disabilities. The statutory language speaks to research topics of interest to Congress, but says little about anticipated outcomes and mechanisms of operation.

Also uncertain are matters concerned with culture and practice and history – questions having to do with how transactions and relationships will be affected. For example, in line with the understanding that IDEA research was to be in support of the implementation of IDEA Parts B and C, OSEP has a long and valued tradition of conversation with a broad array of stakeholders about what priorities should be set, and has frequently provided opportunities to secure public input – approaches that have criticized by some during this reauthorization. Who will administer and work in

the new research Center is also unknown, as is how the expertise of long-time OSEP research administrators will be utilized to ensure as smooth a transition as possible.

CEC members, in the community of researchers and elsewhere, need to watch this transition and participate in efforts to set expectations for and lend support to the emergence of the center and its program of research. Of special importance will be to measure the steps that are taken in light of the needs of schools, agencies, and families for knowledge to advance and address issues in the implementation of the IDEA State grant programs.

Part D: Personnel Development to Improve Services and Results For Children with Disabilities

Summary:

The conference bill revises IDEA's current personnel preparation grant program, and authorizes competitive grants, contracts and cooperative agreements for a variety of purposes whose goal is to improve services and results for all children with disabilities, birth through age 21, consistent with State-identified needs. In addition to highlighting new areas for funding that reflect changes in the Part B program (e.g., to encourage a focus on academics and core content areas; to ensure that all special education teachers are highly qualified; to incorporate scientifically based research into training activities), the revised program places a new emphasis on providing support to beginning special educators and on helping special and general educators working in collaboration to improve results for children with disabilities. The bill authorizes grants in four major areas:

1. **Personnel Development:** The bill requires that funds be awarded in one or more of a broad range of designated areas to meet the diverse and individualized needs of children with disabilities. Examples of these areas include: improving collaboration among special education, general education and parents, as well as collaborations between local programs and institutions of higher education; models for recruiting, inducting, retaining and assessing new teachers especially from groups currently underrepresented; improving instructional leadership in schools; and support for the preparation and ongoing development of related services personnel and personnel with expertise in autism spectrum disorders.
2. **Enhanced Support for Beginning Special Educators:** The bill requires that funds be awarded for activities generally designed to increase the effectiveness of beginning special education teachers, including expanding opportunities for clinical/field experiences in pre-service training programs, and supporting mentorship and induction activities for beginning teachers in the initial years of their practice.
3. **Low Incidence Disabilities:** The bill continues to authorize, with some revisions, support for personnel preparation activities that will benefit children with low incidence disabilities.

4. Leadership Preparation: The bill continues, with minor revision, support for preparing personnel at the graduate, doctoral, and postdoctoral levels to administer, enhance or provide services and improve results for children with disabilities.

Authorization of Appropriations. The law authorizes ‘such sums as may be necessary’ in each year through FY 2010.

Implications for CEC Members:

The Personnel Development program continues to authorize critical support for pre-service training in early intervention, special education, and related services with special priorities on personnel serving children with low-incidence and personnel who will work in leadership positions in higher education, school districts and other local programs and in other organizations. A new emphasis on the needs of beginning special educators encourages the development of opportunities both in pre-service training programs and in practice settings to improve the effectiveness of new teachers as early as possible in their careers. While the bill highlights the need and encourages support for professional development activities that will improve the knowledge and skills of general education teachers and administrators who serve children with disabilities, its authors appear to have recognized that, given the limited availability of funds, the major focus of this program must continue to be on the development of specially trained personnel.

Effective Dates

Summary:

Due to the varying effective dates of different programs within the legislation, CEC has provided statutory language for this section.

(a) Parts A, B, and C, and subpart 1 of part D. --

(1) In General – Except as provided in paragraph (2), parts A, B, and C, and subpart 1 of part D, of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on July 1, 2005.

(2) Highly Qualified Definition – Subparagraph (A), and subparagraphs (C) through (F), of section 602(10) of the IDEA, as amended by title I, shall take effect on the date of enactment of this Act for purposes of the ESEA of 1965.

(b) Subparts 2, 3, and 4 of Part D – Subparts 2, 3, and 4 of Part D of the IDEA, as amended by title I, shall take effect on the date of enactment of this Act.

(c) Education Sciences Reform Act of 2002.

(1) National Center for Special Education Research. – Sections 175, 176, and 177 (other than section 177(c) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on the date of enactment of this Act.

(2) Plan. – Section 177(c) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on October 1, 2005.

Implications for CEC Members:

All CEC members will need to acquaint themselves with the new provisions of IDEA as well as the upcoming regulations. CEC will provide to its members ongoing training, technical assistance and publications related to the implementation of the new IDEA. Go to: www.cec.sped.org for all the latest information on resources available.

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